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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/476,686	12/30/1999	GEOFFREY B. RHOADS	60081	8157
23735	7590	08/24/2005	EXAMINER	
DIGIMARC CORPORATION 9405 SW GEMINI DRIVE BEAVERTON, OR 97008			SONG, HOSUK	
			ART UNIT	PAPER NUMBER
			2135	

DATE MAILED: 08/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/476,686

Applicant(s)

RHOADS ET AL.

Examiner

Hosuk Song

Art Unit

2135

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) 1-4, 9, 10 and 19-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5-7, 11-17, 25-38 and 40-42 is/are rejected.
- 7) ☒ Claim(s) 8, 18, 39, 43-50 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1/10/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 5-6,11-16,25-26 remain rejected under 35 U.S.C. 102(e) as being anticipated by Wachi et al (US 5,880,386).

Claims 5,15: Wachi discloses receiving audio at a device in (fig.1). Wachi discloses discerning from the audio a plural bit audio ID in (fig.4A,4B). Wachi discloses obtaining a user ID from a memory in the device in (fig.5C). Wachi disclose transmitting at least portions of both the audio and the user ID to a location remote from device in (fig.1,7).

Claim 6,16: Wachi discloses audio ID comprises a Digital Object Identifier in (fig.4A,4B).

Claims 25: Wachi disclose responsive to transmission, receiving data from the remote location, the received data relating to audio and presenting at least some of the received audio on a display in (col.6,lines 49-65).

Claim 26: Wachi disclose received data includes data representing a song title, and the method includes presenting song title on the display in (col.6,lines 49-65).

Claim 11: Wachi disclose transducer to receive ambient audio and to output electrical signals corresponding thereto to the input of a processing system, the processing system operable to detect an identifier of the ambient audio from the electrical signals in (fig.1 and col.6,lines 49-60). Wachi disclose a memory storing user identification information and an interface coupled to an output of the processing system for receiving the identifier and coupled to the memory for receiving at least some of the user identification for transmission to a relay station in (fig.1,3A,4A).

Claim 12: Wachi disclose interface is a wireless interface in (col.5,lines 15-15-17).

Claim 13: Wachi disclose alphanumeric display in (col.5,lines 65).

Claim 14: Wachi disclose keypad in (col.5,lines 64-65).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 7,17,27-38,40-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wachi et al(US 5,880,386).

Claims 7,17: Wachi does not specifically disclose receiving the audio by a microphone. Official notice is taken that receiving the audio by a microphone is well known in the art. One of ordinary skill in the art would have been motivated to receive the audio by a microphone in order to capture the external audio information into the system.

Claims 27,28: Wachi discloses transferring electronic signals corresponding to the received ambient music to a processor and using an identifier to obtain information from a database the information relating to the music in (fig.1,4A). Wachi discloses presenting at least textual information to a user about the ambient music, presented information being based at least in part on information obtained from the database in (col.7,lines 15-27). Wachi does not specifically disclose receiving the audio by a microphone. Official notice is taken that receiving the audio by a microphone is well known in the art. One of ordinary skill in the art would have been motivated to receive the audio by a microphone in order to capture the external audio information into the system.

Claim 29: Wachi disclose textual information presented to the user specifies the artist and title of the ambient music in (fig.4A).

Claim 30: Wachi disclose electronically sending the music, or data related to destination device in (col.5,lines 9-21).

Claim 31: Wachi disclose destination device is distinct from the user device in (fig.1).

Claim 32: Wachi disclose textual information identifies packaged media on which the music is available in (fig.4A).

Claim 33: Wachi disclose user device includes a display and the textual information is presented to the user on display in (col.5,lines 65).

Claim 34: Wachi disclose pressing button on the user device in (col.5,lines 65-67).

Claim 35: Wachi does not specifically disclose voice recognition. Official notice is taken that voice recognition is well known in the art. One of ordinary skill in the art would have been

motivated to employ voice recognition in order for user to conveniently perform data processing without using a keyboard.

Claim 36: Wachi disclose portable device in (col.5,lines 15-17,65-67).

Claim 37: Wachi disclose device UID and text presented to the user is dependent at least in part transmitted user/device data in (col.8,lines 55-62).

Claim 38: Wachi disclose wireless transmit and receive capabilities in (col.5,lines 15-21).

Claims 40-42: Wachi disclose user one or more internet links determined by reference to the identifier to correspond to the ambient audio in (col.1,lines 13-20;col.7,lines 15-27 and fig.4A)

#### ***Allowable Subject Matter***

3. Claims 8,18,39,43-50 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Amendment***

4. Applicant has canceled claims 1-4,9-10,19-24 in response to restriction requirement. New rejections are presented above.


#### ***USPTO Contact Information***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hosuk Song whose telephone number is 571-272-3857. The examiner can normally be reached on Tue-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached on 571-272-3859. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HS

  
Hosuk Song  
Primary Examiner  
Art Unit 2135